

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Kenneth Gillam, Appellant, v. Polk County Board of Review, Appellee.	ORDER Docket No. 13-77-0715 Parcel No. 070/01946-000-000
---	---

On June 10, 2014, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant Kenneth Gillam was self-represented. Assistant Polk County Attorney Ralph Marasco, Jr. represented the Board of Review at hearing. The Appeal Board now, having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Kenneth Gillam, owner of property located at 3732 3rd Street, Des Moines, Iowa, appeals from the Polk County Board of Review decision reassessing his property. According to the property record card, the subject property is a one-story dwelling with 1160 square feet of living area on the main level and 291 square feet of finished attic built in 1905. It also has a 216 square-foot, detached garage, and a 96 square-foot, enclosed porch. It is listed as average quality grade (4-05) and in above-normal condition.

The real estate was classified as residential on the initial assessment of January 1, 2013, and valued at \$98,200, representing \$15,400 in land value and \$82,800 in dwelling value.

Gillam protested to the Board of Review on the ground that the property was assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2). He sought an assessment of \$65,000. The Board of Review granted the petition, in part, and reduced the assessment to \$92,100 by decreasing the dwelling value to \$76,700.

Gillam then filed his appeal with this Board and claimed the same ground. He asserts the actual value of the property is \$65,000 based on an appraisal he would provide. Unfortunately, Gillam did not exchange this exhibit ten days prior to the hearing as required by the Appeal Board's administrative rules. Iowa Admin. Code R. 701-71.21(29). Gillam first offered the appraisal at hearing. The Board of Review objected to the exhibit as untimely and it was not admitted. Gillam did not offer any other evidence.

The Board of Review appraiser Zaimes with the Assessor's office identified five sales of properties considered comparable to Gillam's property. All sale transactions were considered normal and are located in the same location as the subject (DM82). Most of the comparable properties are in above-normal or very good condition, and have similar average construction quality.

Address	Year Built	Grade	TSFLA	Garage SF	Date of Sale	Sale Price	AV	SP \$SF
Subject	1905	4-05	1451	291	N/A		\$ 92,100	
1117 Garden Av	1926	4+00	1389	280	10/22/12	\$ 105,000	\$ 104,000	\$ 75.59
3921 9th St	1908	4+00	1343		04/23/12	\$ 87,000	\$ 92,100	\$ 64.78
3816 2nd Av	1936	4-10	1512	576	05/02/12	\$ 77,000	\$ 80,400	\$ 50.93
1000 Douglas	1897	4+00	1306	320	08/31/12	\$ 93,000	\$ 101,400	\$ 71.21
823 Clinton	1908	4+05	1610	320	10/30/12	\$ 110,000	\$ 111,800	\$ 68.32

We note the sale prices range from \$77,000 to \$110,000, or \$50.93 per-square-foot to \$75.59 per-square-foot. The Board of Review set the subject property's assessment at \$92,100, or \$63.47 per-square-foot, which is well within this range. The sales offered by the Board of Review were normal 2012 sales of comparable properties and were adjusted for differences. We find the evidence presented by the Board of Review supports Gillam's assessment.

Conclusions of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* Section 441.21(1)(b) further states the sale prices of properties in abnormal transactions not reflecting market value must not be taken into account, or must be adjusted to eliminate the effect of factors which distort market value, including . . . foreclosure or other forced sales [and] contract sales. If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

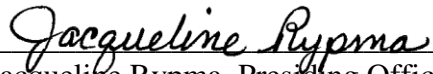
In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the

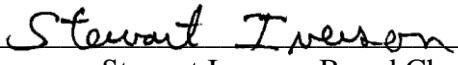
subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

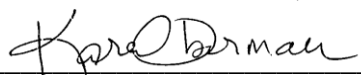
Gillam did not provide any evidence to support his claim of over-assessment. The adjusted comparable sale evidence submitted by the Board of Review supports the assessment. Viewing the record as a whole, we determine the preponderance of the evidence does not support Gillam's claim of over-assessment.

THE APPEAL BOARD ORDERS the subject property's assessment of \$92,100, as determined by the Polk County Board of Review, as of January 1, 2013, is affirmed.

Dated this 13th day of June, 2014.


Jacqueline Rypma, Presiding Officer


Stewart Iverson, Board Chair


Karen Oberman, Board Member

Copies to:

Kenneth Gillam
3732 3rd Street
Des Moines, IA 50313-4341
APPELLANT

Ralph Marasco, Jr.
Assistant Polk County Attorney
111 Court Avenue, Room 340
Des Moines, IA 50309-2218
ATTORNEY FOR APPELLEE